IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

Bail Appl..No. 7067 of 2007()

CRIME NO.40/2002 OF EXCISE RANGE, KONNI

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: PETITIONERS ACCUSED 3 AND 4

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1. RAMANAN PILLAI,S/O.PODIYAN PILLAI
   ETTIMILKUNNATHIL HOUSE, KONNI,
   THAZAM VILLAGE, AKOLIKUZHI,
   PATHANAMTHITTA DISTRICT.

2. JAYA PRAKASH,S/O.BHASKARAN NAIR
   PUTHENVEETTIL, KONNI THAYAM MURI
   NOW RESIDING AT PALAZHI, MAMMOODU,KULMUKKU,
   PATHANAMTHITTA DISTRICT.

BY ADV. SRI.ABRAHAM SAMSON
SMT.LOVELY SAMSON

RESPONDENTS: STATE

THE STATE OF KERALA, REPRESENTED BY
THE SUB-INSPECTOR OF POLICE
MOOZHIYAR POLICE STATION THROUGH
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM, KOCHI-31/

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7067 of 2007

Dated this the 20th day of November 2007

O R D E R

Application for anticipatory bail. The petitioners face allegations under the Kerala Abkari Act. Crime was registered as early as in 2002. Investigation is complete. Final report has already been filed. Cognizance has been taken. Committal proceedings has been taken. The petitioners have not entered appearance so far. They are accused 3 and 4. Committal proceedings are thus pending before the learned Magistrate.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. Their absence earlier was not wilful or deliberate. The petitioners are willing to surrender before the learned Magistrate and seek regular bail. But they apprehend that their application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. They, therefore, pray that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioners on bail when they appear and apply for bail.

3. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which they could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioners on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this bail application is dismissed but with the specific observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

The name of the third accused is Ramanan Pillai and not Ramachandran Pillai as wrongly typed initially in the petition, submits the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007